

Message Text

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ORIGIN ACDA-19

INFO OCT-01 EUR-25 IO-14 ISO-00 CIAE-00 DODE-00 PM-07 H-03

INR-10 L-03 NSAE-00 NSC-07 PA-04 RSC-01 PRS-01 SPC-03

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NSC:MR. POWER (SUBS)

JCS/J5:CAPT WELCH (INFO)

L:HRUSSELL

NEUR/SOV:GHUMPHREY

EUR/RPM:RHFROWICK

EUR/RPM:JDAVISON

S/S:SRGAMMON

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R 130015Z MAR 74

FM SECSTATE WASHDC

TO USMISSION GENEVA

USMISSION NATO

INFO ALL NATO CAPITALS

AMEMBASSY MOSCOW

AMEMBASSY VIENNA

C O N F I D E N T I A L STATE 049886

E.O. 11659:GDS

TAGS: PFOR

SUBJECT: CSCE: CBM'S - NATURE OF OBLIGATION

REFS: (A) STATE 11362; (B) STATE 16559; (C) NATO 1174

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GENEVA FOR US CSCE DEL

VIENNA FOR MBFR DEL

1. ALLIES HAVE TAKEN THE POSITION THAT CBMS SHOULD NOT BE SET FORTH IN A LEGALLY BINDING MANNER. THE UK HAS BEEN SEARCHING FOR LANGUAGE WHICH WOULD CREATE A STRONG MORAL AND POLITICAL OBLIGATION BUT NO LEGAL COMMITMENT. WE BELIEVE FORMULATION PROPOSED BY UK REP (PARA 6F OF REF C) "EXPRESS THEIR FIRM INTENTION TO ..." MEETS OUR NEEDS AND WE WOULD HAVE NO TROUBLE SUPPORTING IT IN PLENARY. WE WOULD HOPE THAT US AND UK SUPPORT OF THIS FORMULATION MIGHT GO LONG WAY TOWARDS CREATING INTRA-ALLIANCE AGREEMENT ON THIS ISSUE. HOWEVER, IF IT WOULD HELP TO BUILD ALLIED CONSENSUS, WE COULD ALSO ACCEPT "RESOLVE THAT THEY SHOULD..." OR "HAVE DECIDED THAT THEY SHOULD..."

2. YOU SHOULD SEEK AGREEMENT WITH UK ON ONE OF THESE ALTERNATIVES TO BE PUT TO ALLIES, AND, LATER, TO CSCE SUBCOMMITTEE.

3. ADDRESSEES IN APPROACHING UK AND OTHER ALLIED DELS SHOULD INFORM THEM THAT WE CONTINUE TO HAVE SERIOUS DIFFICULTIES WITH "HAVE DECIDED THAT THEY...WILL" FORMULATION. IF IT REMAINS IN UK TEXT, WE SHALL BE OBLIGED TO OPPOSE IT IN CBM SUBCOMMITTEE SESSIONS. YOU SHOULD EXPLAIN THAT USE OF "WILL" OR "SHALL" CANNOT BY ITSELF DETERMINE WHETHER A BINDING OBLIGATION IS CREATED BUT MUST BE VIEWED IN CONTEXT. INTRODUCTORY PHRASES (E.G. "AGREE THAT," OR "HAVE DECIDED THAT") ARE OF EQUAL, IF NOT GREATER, IMPORTANCE. COMBINATION OF "HAVE DECIDED THAT THEY" AND "WILL" CREATES A LEGALLY BINDING OBLIGATION IN OUR VIEW, AS WE HAVE PREVIOUSLY STATED. KISSINGER

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